(43)

HIGH COURT OF CHHATTISGARH AT BILASPUR

Single Bench : Hon'ble Shri H.L. Dattu, C.J.

Writ Petition No. 882 of 2001

Petitioner Uderam, son of Malik Ram Adharia, aged about 68 years, Occupation Cultivator, Resident of gerera, Kapukuda, Tahsil Saraipali, District Mahasamund (Chhattisgarh)

versus

Respondents

1. The Collector, Mahasamund, District Mahasamund (Chhattisgarh)
2. Sub-Divisional Officer, Saraipali, District Mahasamund (Chhattisgarh)
3. Chandra Shekhar, aged about 60 years, son of Budhu
4. Tunu, aged about 53 years, Budhu Saura,
5. Lagnu, son of Budhu Saura, aged about 50 years,
6. Phagnu, aged about 45 years, son of Budhu Saura,
7. Jagnu, aged about 42 years, son of Budhu Saura,
8. Sukhai, aged about 40 years, daughter of Budhu Saura, wife of Shokhilal

Respondent no.3 to 8 all resident of Kapukuda, P.H. No.16, Tahsil Saraipali, District Mahasamund (C.G.)

Present : Shri Pankaj Shrivastava, counsel for the petitioner.
Shri Sumesh Bajaj, Govt. Adv. for the State/respondents No. 1 & 2.
Smt. Renu Kochar, counsel for respondents No. 3 to 8.

ORAL ORDER

(Passed on 25th April, 2007)

Petitioner is the purchaser of land bearing Khasra No.60/2002 (piece) and Khasra No. 62 (piece) measuring area 2.13 acres, situate in village Khamarpali after obtaining appropriate permission from the Competent Authority, from the father of respondents No. 3 to 8 under a registered sale deed dated 06-01-1968.

(2) The S.D.O. (Revenue) by exercising *suo motu* power under Section 170-B of the Chhattisgarh Land Revenue Code has passed an order dated 16-08-1989 reverting back the land from the purchaser and handing over the possession of the same to the respondents No. 3 to 8. Aggrieved by the said order of the S.D.O., the petitioner carried the matter before the First Appellate Authority in the year 2000 and the First Appellate Authority rejected the appeal filed by the petitioner by order dated 05-03-2001 only on the ground of delay and laches. Aggrieved by the said order, the petitioner is before me in this writ petition.

(3) In the First Appeal filed by the petitioner before the Appellate Authority, it was his specific case that he came to know about the orders passed by the S.D.O. sometime in the year 2000 when the respondents No.3 to 8 tried to disturb his peaceful possession and enjoyment over the land purchased by him in the year 1968. Along with the appeal he had also filed an application under Section 5 of the Limitation Act to condone the delay, if any. The First Appellate Authority without noticing any one of the grounds urged by the appellant in his application for condonation of delay, has mechanically passed the order dated 05-03-2001 rejecting the appeal filed by the petitioner.

(4) I have also carefully gone through the order passed by the First Appellate Authority. A perusal of the said order would clearly demonstrate that it is a non-speaking order. The order should speak itself. The Appellate Authority is expected to assign appropriate and cogent reason while deciding an appeal. Same is lacking in the present case. Therefore, I cannot sustain the order passed by the First Appellate Authority and the same requires to be set-aside. Accordingly, the following:-

ORDER

1. The petition is allowed.
2. The impugned order passed by the First Appellate Authority dated 05-03-2001 is set-aside.
3. The matter is remanded back to the First Appellate Authority with a direction to decide the appeal of the petitioner on its own merits after affording reasonable opportunity of hearing to both the parties.
4. Other contentions of the parties are left open.
5. Order accordingly.

Sd/-
Chief Justice